

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THE RITZ-CARLTON HOTEL COMPANY, L.L.C.,

Opposer,

v.

ROBERT B. WILCOX,

Applicant.

76553029
Opp. No. 91161969

**OPPOSER'S REPLY BRIEF IN SUPPORT
OF ITS MOTION TO COMPEL**

This matter is before the Trademark Trial and Appeal Board on Opposer The Ritz-Carlton Hotel Company, L.L.C.'s motion to compel Applicant Robert B. Wilcox to (1) provide answers to Opposer's First Set of Interrogatories that are signed by Applicant and verified under oath; and (2) provide complete and non-evasive answers to Opposer's First Set of Interrogatories. In Applicant's response to this motion, Applicant asserts that he will provide signed, verified, and amended interrogatory answers. As of the filing date of this reply brief, however, Applicant has not done so. Applicant's conduct has caused undue delay in this proceeding. Opposer's testimony period was originally scheduled to open on September 18, 2005. Opposer should not be required to begin its testimony period until Applicant complies with his discovery obligations. Accordingly, after making numerous unsuccessful good faith efforts to persuade Applicant to comply voluntarily, Opposer had no alternative but to file a motion to compel and a request that the opening of its testimony be extended.

Applicant gives no explanation as to why he has failed to comply with his obligations under the Federal Rules of Civil Procedure and Board rules and has ignored numerous good faith attempts by Opposer to resolve the discovery dispute without needlessly wasting the Board's



resources. It can only be assumed that Applicant is refusing to comply with his discovery obligations because he wishes to postpone a decision on the merits in this case. It is obvious that Applicant will continue these dilatory tactics unless or until the Board issues an order compelling Applicant to respond. Accordingly, Opposer requests that its Motion to Compel be granted.

I. Applicant Concedes He Has Not Provided Answers To Opposer's Interrogatories Signed By Applicant And Verified Under Oath.

Applicant acknowledges in his response brief that he has failed to comply with the relevant rules requiring him to provide interrogatory answers signed by the Applicant and verified under oath. To date, Applicant has not provided signed and verified answers, despite his assurance that he would do so "expeditiously." Accordingly, Opposer requests that the Board compel Applicant to provide answers to Opposer's interrogatories signed by Applicant and verified under oath.

II. Applicant Should Be Compelled To Answer Opposer's Interrogatories Fully.

Applicant does not rebut the substance of any of the deficiencies raised by Opposer in Applicant's answers to Opposer's First Set of Interrogatories. Instead, Applicant argues that he has addressed these deficiencies in unsworn and unverified letters signed by his attorney. As Opposer argued in its motion, Opposer is entitled to receive complete interrogatory answers signed under oath by Applicant. Again, Applicant says he will provide signed and verified amended interrogatory answers. To date, however, Applicant has not done so. Accordingly, Opposer requests that the Board compel Applicant to provide complete and non-evasive sworn and verified answers to Opposer's interrogatories.

CONCLUSION

For all the foregoing reasons, Opposer respectfully requests the Board to compel Applicant to provide answers to Opposer's First Set of Interrogatories signed by Applicant and verified under oath, and to compel Applicant to provide complete and non-evasive answers to Opposer's First Set of Interrogatories. Opposer also respectfully requests that the Board issue an order resetting the testimony periods in this case upon determination of this motion.

THE RITZ-CARLTON HOTEL COMPANY, L.L.C.

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CERTIFICATE OF MAILING

It is hereby certified that the attached **Opposer's Reply Brief in Support of its Motion to Compel** (re Opposition No. 91161969) is being deposited with the U.S. Postal Service addressed to the Commissioner of Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, this 26 day of September, 2005, marked first class mail, postage prepaid.



CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing **Opposer's Reply Brief in Support of its Motion To Compel** has been served upon Applicant's counsel, Richard D. Clarke, Esq., Law Office of Richard D. Clarke, 3755 Avocado Blvd., #100, La Mesa, California 91941-7301, by first class mail, postage prepaid, this 26 day of September, 2005.

